

**TAX TIPS FOR  
A FOOD PROCESSOR  
CONDUCTING BUSINESS IN DELAWARE**

**Things You Should Know**

**Definitions** 30, Del. C., Ch. 29

A food processor is every person engaged in the processing of food or foodstuffs which are to be resold by the person acquiring the product. Every person engaged in baking, poultry processing, or cannery business shall be considered engaged in the processing of food or foodstuffs.

'Food Processing' includes, by way of example and not by limitation, the activities of preparing food for sale and distribution including slaughtering, cutting, washing, cooking, baking, freezing and packaging. 'Food' includes by way of example and not by limitation, livestock, animals, produce, crops, fruits, seafood, including farm raised, deli products, soup, liquid drinks (excluding alcoholic beverages), dairy products, food supplements, fruit juices, fruit sauces, snack foods and any other substance taken in by a human or animal which provides sustenance or nourishment.

**Gross Receipts**

Gross receipts includes total consideration received by a food processor for goods sold within this State. A good is 'sold within this State' when the title and risk of loss pass from the purchaser to the seller, regardless of the final destination of the product. Consideration for goods sold or services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, trade-ins, manufacturer's coupons and rebates and any other consideration of any kind.

**Gross Receipts Do Not Include:**

- Returned merchandise
- Like kind exchanges
- Certain sales to the State of Delaware which are administered by the Department of Administrative Services

**Gross Receipts May Not be Reduced By:**

- Cost of property sold
- Cost of material and/or labor
- Interest, discount or delivery costs
- State or Federal taxes

**License and Gross Receipts Requirements**

A food processor is required to obtain a business license -- \$75 for each location -- which must be renewed annually on or before December 31st of each year. Additionally, every food processor must pay a gross receipts tax at the rate of .154% (.00154) on taxable gross receipts received from processed food or foodstuffs which are sold within Delaware. The first \$80,000 of gross receipts received per month (\$240,000 quarterly) are exempt from the gross receipts tax.

Specific instructions will be sent with a personalized gross receipts coupon book. If you need to register with the Division of Revenue for an additional business license, please complete a Combined Registration Application, available on the Internet, and mail with the appropriate fee to the Division of Revenue.

**SPECIAL NOTE: ALL SALES TO THE STATE OF DELAWARE, THE UNITED STATES AND THEIR INSTRUMENTALITIES, AGENCIES AND POLITICAL SUBDIVISIONS ARE CONSIDERED WHOLESALE SALES.**

#### **Tax Rates, Exclusions and Due Dates**

	<b>Tax Rate</b>	<b>Monthly Exclusion</b>
Food Processor	.00154	\$80,000
Sample Calculation	Total Gross Receipts	\$173,000
	Less Exclusion	<u>80,000</u>
	Taxable Gross Receipts	\$ 93,000
	Tax Rate	x .00154
	Tax Due	<u>\$ 143</u>

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

#### **Due Dates of Returns**

New licensees will file on a quarterly basis through their first calendar year. The Division of Revenue will then perform a 'lookback' procedure and determine if the filing frequency should be changed.

Monthly Filers	20 <sup>th</sup> day of the following month
Quarterly Filers	last day of the first month after the end of the calendar quarter.

#### **Gross Receipts Tax Exemption**

Effective January 1, 1997, House Bill No. 678, exempts from business license gross receipts tax transactions between small, closely held firms. To qualify, the subject firms must be 80% owned by the same five or fewer shareholders, or 100% owned by the same family.

#### **Common Ownership/Direction**

Businesses which operate their separate branches by the use of separate operating corporations or other business entities are only entitled to one monthly or quarterly exclusion for the enterprise to the extent that the corporations or other business entities have common ownership or common direction and control.

#### **Caution Concerning Multiple Exclusions**

Nearly all licensees are permitted to reduce their monthly or quarterly gross receipts by certain specific exclusions in determining their taxable gross receipts. The Delaware Code limits the number of allowable exclusions for each general business activity. A taxpayer conducting a business activity for which an exclusion is provided is entitled to **ONLY ONE** monthly or quarterly exclusion regardless of the number of locations at which such activity is conducted. For example, a taxpayer who operates multiple convenience stores at which gasoline is also sold should aggregate the receipts from all goods sold at all locations and subtract only one monthly exclusion. Separate retail licenses are not required for the sale of food and petroleum products. While the Division of Revenue may assign a unique business code which reflects the primary product

sold, retailers, wholesalers and manufacturers may sell or manufacture multiple product lines without obtaining a separate license for each product line. However, separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as manufacturing and wholesaling. Please note that all Delaware manufacturers are also subject to the gross receipts tax as a Wholesaler or Retailer on sales to Delaware customers. Taxpayers who may have obtained separate licenses for each product line sold or manufactured should only renew **ONE** retailer's, wholesaler's or manufacturer's license for each place of business.

### **Regulatory and Local Requirements**

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

### **General**

If you have any questions, please contact one of the following offices

<i><b>Wilmington</b></i>	<i><b>Dover</b></i>	<i><b>Georgetown</b></i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801  (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901  (302) 744-1085	Division of Revenue Suite 2 422 North DuPont Highway Georgetown DE 19947  (302) 856-5358

or by e-mail at: [william.kirby@state.de.us](mailto:william.kirby@state.de.us) (302) 577-8259

**DELAWARE DIVISION OF REVENUE**  
**GROSS RECEIPTS TAX RETURN - FORM LQ2 9501**

**LQ**

ACCOUNT NUMBER	TAX PERIOD ENDING	DUE ON OR BE FORE	BUSINESS CODE GROUP DESCRIPTION <b>374 WHL-FD PRO</b>
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**BUSINESS NAME AND ADDRESS**

1. TOTAL DELAWARE GROSS RECEIPTS	\$	00
2. LESS EXCLUSION (See Line Instructions)	\$	<b>240,000</b> 00
3. TAXABLE GROSS RECEIPTS	\$	00
4. LINE 3 X <b>0.00154</b>	\$	00
5. APPROVED TAX CREDITS	\$	00
6. BALANCE DUE (Subtract Line 5 from Line 4.)	\$	00

AUTHORIZED SIGNATURE I declare under penalties of perjury, that this is a true, correct and complete return.

DATE

TELEPHONE NUMBER

**Mail This Form With Remittance Payable To:**  
 Delaware Division of Revenue  
 P.O. Box 2340, Wilmington, DE 19899-2340  
 For questions, call (302) 577-8780

If desired, provide an e-mail address where we may contact you regarding this return.

E-MAIL ADDRESS

CUT ALONG THIS LINE AND SEND THE ABOVE PORTION WITH ANY PAYMENT DUE

**GROSS RECEIPTS TAX RETURN - QUARTERLY**

Complete the return above, sign, date and file by the due date. You may file all monthly or quarterly returns at the end of the year if no tax is due on any of the returns.

**To Update Your Contact/Business Information on File with Revenue:**

[Remit a License Request for Change form](#)

**To Change Tax Information You've Already Reported:**

[Remit an Amended return](#)

**SPECIFIC LINE INSTRUCTIONS**

**PLEASE NOTE: THE DIVISION OF REVENUE REQUIRES ROUNDING OF ALL AMOUNTS ON ALL GROSS RECEIPTS RETURNS.**

Line 1. - Enter on Line 1 the amount of your total Delaware gross receipts from sales, rents, services, or commissions for the tax period.

Line 2. - The maximum allowable quarterly exclusion, which is printed on your form, is \$240,000 for all Business Codes except the manufacturer's quarterly exclusion is \$3,000,000. (If you have more than one branch or entity with common ownership or common direction and control, you are only allowed one exclusion.)

Line 3. - Subtract Line 2 from Line 1 and enter the result on Line 3. If this is a negative amount or zero, enter zero on Line 3. (No tax is due. Sign, date and file this return.) **NOTE:** If your TAXABLE GROSS RECEIPTS (Line 3) is zero, you may delay filing your returns until you have tax due within the calendar year. However, you must file all returns for the calendar year by January 31<sup>st</sup> of the next year.

Line 4. - Multiply Line 3 by the gross receipts tax rate printed on the return. Enter the result on Line 4.

Line 5. - Enter on Line 5 approved Business Tax Credits (Travelink, Blue Collar Job, Green Industries. Taxpayers claiming these tax credits should refer to Form 402-LTR for specific instructions and attach a copy of Form 402-LTR to this return.

Line 6. - Subtract Line 5 from Line 4 and enter the result on Line 6. This amount of tax is due and payable with the filing of this return.

**If you have not already renewed this year's business license, do it now to avoid a \$200 penalty.**  
 Go to [www.delaware.gov](http://www.delaware.gov) to renew your business license online!

**SAMPLE COMPLETED RETURN**

1. TOTAL DELAWARE GROSS RECEIPTS	\$	290,000.00
2. LESS EXCLUSION (See Line Instructions)	\$	<b>240,000.00</b>
3. TAXABLE GROSS RECEIPTS	\$	<b>50,000.00</b>
4. LINE 3 X <b>0.00154</b> =	\$	<b>77.00</b>
5. APPROVED TAX CREDITS	\$	<b>34.00</b>
6. BALANCE DUE (Subtract Line 5 from Line 4.)	\$	<b>43.00</b>

Quarterly Gross Receipts Tax Returns are due on or before the last day of the month following the end of the quarter as listed.

QUARTER END	DUE DATE	QUARTER END	DUE DATE
03/31/2006	05/01/2006	09/30/2006	10/31/2006
06/30/2006	07/31/2006	12/31/2006	01/31/2007

For questions or to speak with a customer service representative, please call Revenue's Gross Receipts Department at (302) 577-8780.

Forms ♦ Renew Business License ♦ [www.state.de.us/revenue](http://www.state.de.us/revenue) ♦ File Online ♦ Tax Tips